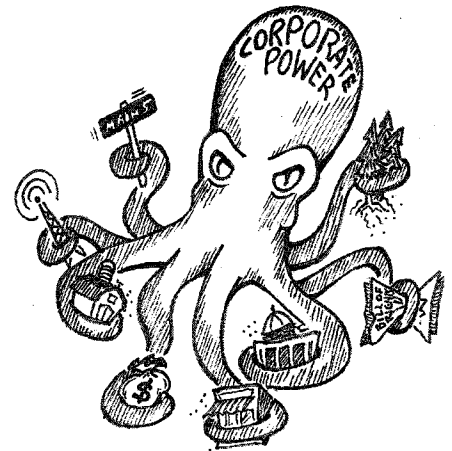


Corporate Personhood

Corporate personhood is a legal doctrine that gives corporations the rights conveyed to "persons" by the U.S. Constitution and laws of Congress. The most important of these rights are those in the 1st (free speech), 4th (search & seizure), 5th (due process) and 14th (equal protection) amendments to the Constitution.

Corporations existed at the birth of our nation - indeed, the American Revolution was in part a revolution against the power of British 'crown' corporations, such as the British East India Company. And corporations, from their beginnings, have had certain rights necessary for conducting business, such as the rights to hold property, enter into contracts, sue and be sued.



The word "corporation" does not occur in the U.S. Constitution. The powers to define and create corporations are reserved to the states, i.e., the federal government does not charter corporations - only states do. But through hundreds of decisions over the past 120 years the U.S. Supreme Court has gradually extended the constitutional rights accorded 'persons' to corporations. And states have gradually codified corporate personhood into their own constitutions and laws, in response to Supreme Court decisions and corporate lobbying and political influence.

Many corporations, such as municipalities and 'non-profits', family farms, and even large, for-profit corporations, greatly benefit people and the planet. But for-profit corporations, by their design and intent as well as legally, are one-dimensional, profit-seeking entities, concerned primarily with productivity, competition, market share, and monetary costs. Having the constitutional rights originally intended for natural persons, corporate wealth is now able to dominate our capitol and our courtrooms. That domination in turn subordinates human values, and human and planetary health, to the single-minded pursuit of profit.

Corporate personhood can also prevent citizens from ensuring that corporate activities serve the public interest. Efforts to control pollution, ban toxics, protect natural resources, preserve communities and jobs, and gather information necessary for crafting laws and regulations, are often compromised or thwarted when corporations invoke the personhood rights granted them by the Supreme Court.

Here is one example of what corporate personhood means:

* The Vermont legislature, in response to concerns over health effects in humans and dairy cows, passed a law in 1994 that required labeling products made from cows treated with rGBH or rBST (recombinant bovine somatotropin.) The dairy industry sued, claiming the law violated their First Amendment rights to remain silent ("negative free speech.") The Court of Appeals agreed, writing *"Although the Court is sympathetic to the Vermont consumers who wish to know which products may derive from rBST-treated herds, their desire is insufficient to permit the state of Vermont to compel the dairy manufacturers to speak against their will."* (*International Dairy Foods Association v. Amestoy*)

In other words, corporate personhood generally, and corporation's 'negative' free speech rights specifically, trumped the public health concerns of the citizen majority

The vast majority of these Supreme Court decisions may seem harmless, especially when compared with deadly examples of corporate malfeasance (e.g., the Bhopal disaster, W.R.Grace's Zonolite Mine, rollovers in early-model SUVs.) But there have been hundreds of decisions extending rights to corporations, and each one serves as a precedent for untold numbers of similar situations around the country. The result is that regulators and local officials are often afraid to challenge corporate plans and actions, since they may end up in court facing well-financed corporate lawyers and bad legal precedents.

Some argue that corporate personhood serves all corporations, like family farms and non-profits, and thus should be preserved. But if corporate personhood were abolished, legislatures would be free to convey specific privileges to corporations, and to discriminate among the various types and sizes of corporations in doing so. Another argument in support of corporate personhood is that it ensures consideration of the full complement of ideas and perspectives that are germane to debating policy or crafting and implementing regulations. But clearly, those ideas and perspectives are now conveyed by individuals, and those individuals would still have the right to present the corporate perspective even if the corporation, per se, could not.

Corporate personhood can be revoked in two ways: (1) new Supreme Court decisions that essentially reverse the findings of historic decisions, or (2) passage of a new Constitutional Amendment. Neither option is easy, but neither is impossible. The path to both begins with raising the issue, starting the conversation, creating space for new ideas and public opinion to grow and evolve. Although action at the federal level is necessary to revoke corporate personhood, there are many opportunities at the local and state levels to start on that path.

The following websites provide more information about corporate personhood:

Reclaim Democracy – <http://reclaimdemocracy.org>

Corporate Accountability Project – www.corporations.org

Program on Corporations, Law & Democracy - www.poclad.org

If you would like to help with our effort to reign in corporate power, please contact us at: corp@mhrn.org

Here is a second example of what corporate personhood means:

* In 1998 Omnipoint Communications Corporation sought a variance from local zoning laws to build a cell phone tower in a Pennsylvania community. The Township denied the variance in response to citizen concerns with possible health effects and based on the 'police powers' of government to protect life and property. Omnipoint sued under the Telecommunications Act of 1996 (TCA) and the Civil Rights Act of 1964. The TCA includes a section that outlaws restrictions on the "placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions."

According to Washington Post estimates, the telecommunications industry donated \$48 million to federal candidates and political parties while Congress was working on this bill, including \$2.7 million during the period of the conference committee meetings to finalize the bill -- three times more than industry donations during comparable periods in each of the two previous election cycles.

Corporate 'free' speech gets results!

The Court ruled that the Township had violated the law in denying the variance, and then added injury to insult by ordering the Township to pay Omnipoint's court costs under the Civil Rights Act. That act states, in part:

"Every person who, under color of any statute..., subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, ...secured by the Constitution and laws, shall be liable to the party injured ... for redress."

In other words, the Township 'person' had violated the civil rights of the corporation 'person' and had to pay!